

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-566-RJC
(3:10-cr-73-RJC-1)**

GABRIEL CISNEROS,)	
)	
Petitioner,)	
)	
vs.)	ORDER
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
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THIS MATTER is before the Court on the Government’s Motion to Hold Petitioner’s Motion to Vacate in Abeyance, (Doc. No. 3).

Petitioner filed a *pro se* Motion to Vacate pursuant to 28 U.S.C. § 2255 challenging, *inter alia*, his conviction and sentence on the grounds that 18 U.S.C. § 924(c) is unconstitutionally vague. (Doc. No. 1). The Government moved to stay these proceedings pending the Fourth Circuit Court of Appeals’ decisions in United States v. Ali, No. 15-4433. (Doc. No. 3). On January 24, 2019, the Fourth held that § 924(c) is unconstitutionally vague. United States v. Simms, 914 F.3d 229 (4th Cir. 2019). The question of § 924(c)’s constitutionality is now before the United States Supreme Court on certiorari review in United States v. Davis, No. 18-431, which is scheduled for oral argument on April 17, 2019. Petitioner has not objected to the Government’s Motion.

The stay will be granted because the issues to be decided in Davis may be dispositive of Petitioner’s claim for relief. In light of these factors, the Court finds it is in the interest of judicial economy to grant the Government’s Motion.

IT IS, THEREFORE, ORDERED that:

1. The Government’s Motion to Hold Petitioner’s Motion to Vacate in Abeyance,

(Doc. No. 3), is **GRANTED**.

2. This case is held in abeyance pending the United States Supreme Court's decision in United States v. Davis, No. 18-431. The Government shall have **60 days** following the United States Supreme Court's issuance of its decision in Davis to file an answer, motion, or other response to Petitioner's § 2255 Motion to Vacate.

Signed: March 29, 2019

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

